IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.MC.No. 2033 of 2007()

CC.37/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR

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PETITIONER: 3RD ACCUSED

SHAFEEK, AGED 29 YEARS,
S/O.IBRAHIM, POOLATH HOUSE,
ALLA DESOM, SREE NARAYANA PURAM VILLAGE,
THRISSUR.

BY ADV. SRI.RAJESH CHAKYAT

RESPONDENTS: COMPLAINANT

THE SUB INSPECTOR OF POLICE,
MATHILAKAM POLICE STATION,
REP.BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2033 of 2007

Dated this the 26th day of June, 2007

O R D E R

Petitioner along with the co-accused faced indictment in a prosecution, inter alia, under Section 308 r/w 34 I.P.C. The case against the co-accused has been split up and committed to the Court of Session. The case against the petitioner has been renumbered as C.C.No.37 of 2007, it is submitted at the Bar. I am unable to understand how a committal proceedings split up is allegedly registered as C.C.No.37 of 2007. Of course, that dispute is not of great relevance before me.

2. Be that as it may, the petitioner submits that he was on bail at the stage of investigation. Thereafter, he had gone abroad in connection with his employment and no notice whatsoever has been received by him. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him. He submits that he is absolutely innocent. He is willing to surrender before the learned Magistrate, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-